

SENATE BILL No. 445

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1; IC 36-9-40.

Synopsis: Property tax payments pending appeals. Provides that in the case of a petition for administrative review or a proceeding for judicial review concerning an assessment, a taxpayer may avoid a penalty only if the taxpayer pays property taxes on the full amount of the assessed value subject to review.

Effective: July 1, 2005.

Mrvan

January 13, 2005, read first time and referred to Committee on Tax and Fiscal Policy.

C
o
p
y



Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 445

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-15-10 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) If a petition for
3 review to any board or a proceeding for judicial review in the tax court
4 regarding an assessment or increase in assessment is pending, the taxes
5 resulting from the assessment or increase in assessment are,
6 notwithstanding the provisions of IC 6-1.1-22-9, not due until after the
7 petition for review, or the proceeding for judicial review, is finally
8 adjudicated and the assessment or increase in assessment is finally
9 determined. However, even though a petition for review or a
10 proceeding for judicial review is pending, the taxpayer shall pay taxes
11 on the tangible property when the property tax installments come due,
12 unless the collection of the taxes is stayed under IC 4-21.5-5-9 pending
13 a final determination in the proceeding for judicial review. The amount
14 of taxes ~~which~~ **that** the taxpayer is required to pay, pending the final
15 determination of the assessment or increase in assessment, ~~shall be~~ **is**
16 based on ~~(1)~~ the assessed value ~~reported by the taxpayer on the~~
17 taxpayer's personal property return if a personal property assessment;

2005

IN 445—LS 7145/DI 52+



C
o
p
y

or an increase in such an assessment, is involved; or (2) an amount based on the immediately preceding year's assessment of real property if an assessment, or increase in assessment, of real property is involved.

(b) If the petition for review or the proceeding for judicial review is not finally determined by the last installment date for the taxes, the taxpayer, upon showing of cause by a taxing official or at the tax court's discretion, may be required to post a bond or provide other security in an amount not to exceed the taxes resulting from the contested assessment or increase in assessment.

subject to review under:

(1) the petition for review; or

(2) the proceeding for judicial review.

(c) (b) Each county auditor shall keep separate on the tax duplicate a record of that portion of the assessed value of property that is described in IC 6-1.1-17-0.5(b). When establishing rates and calculating state school support, the department of local government finance shall exclude from assessed value in the county the assessed value of property kept separate on the tax duplicate by the county auditor under IC 6-1.1-17-0.5(b).

SECTION 2. IC 6-1.1-37-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) This section applies when:

(1) an assessment is made or increased after the date or dates on which the taxes for the year for which the assessment is made were originally due;

(2) the assessment upon which a taxpayer has been paying taxes under ~~IC 6-1.1-15-10(a)(1)~~ or (a)(2) **IC 6-1.1-15-10(a)** while a petition for review or a judicial proceeding has been pending is less than the assessment that results from the final determination of the petition for review or judicial proceeding; or

(3) the collection of certain ad valorem property taxes has been stayed under IC 4-21.5-5-9, and under the final determination of the petition for judicial review the taxpayer is liable for at least part of those taxes.

(b) Except as provided in subsections (c) and (g), a taxpayer shall pay interest on the taxes the taxpayer is required to pay as a result of an action or a determination described in subsection (a) at the rate of ten percent (10%) per year from the original due date or dates for those taxes to:

(1) the date of payment; or

(2) the date on which penalties for the late payment of a tax installment may be charged under subsection (e) or (f);

C
o
p
y



1 whichever occurs first.

2 (c) Except as provided in subsection (g), a taxpayer shall pay
3 interest on the taxes **on personal property** the taxpayer is ultimately
4 required to pay in excess of the amount that the taxpayer is required to
5 pay under ~~IC 6-1.1-15-10(a)(1)~~ **IC 6-1.1-15-10(a)** while a petition for
6 review or a judicial proceeding has been pending at the overpayment
7 rate established under Section 6621(c)(1) of the Internal Revenue Code
8 in effect on the original due date or dates for those taxes from the
9 original due date or dates for those taxes to:

10 (1) the date of payment; or

11 (2) the date on which penalties for the late payment of a tax
12 installment may be charged under subsection (e) or (f);

13 whichever occurs first.

14 (d) With respect to an action or determination described in
15 subsection (a), the taxpayer shall pay the taxes resulting from that
16 action or determination and the interest prescribed under subsection (b)
17 or (c) on or before:

18 (1) the next May 10; or

19 (2) the next November 10;

20 whichever occurs first.

21 (e) A taxpayer shall, to the extent that the penalty is not waived
22 under section 10.5 of this chapter, begin paying the penalty prescribed
23 in section 10 of this chapter on the day after the date for payment
24 prescribed in subsection (d) if:

25 (1) the taxpayer has not paid the amount of taxes resulting from
26 the action or determination; and

27 (2) the taxpayer either:

28 (A) received notice of the taxes the taxpayer is required to pay
29 as a result of the action or determination at least thirty (30)
30 days before the date for payment; or

31 (B) voluntarily signed and filed an assessment return for the
32 taxes.

33 (f) If subsection (e) does not apply, a taxpayer who has not paid the
34 amount of taxes resulting from the action or determination shall, to the
35 extent that the penalty is not waived under section 10.5 of this chapter,
36 begin paying the penalty prescribed in section 10 of this chapter on:

37 (1) the next May 10 which follows the date for payment
38 prescribed in subsection (d); or

39 (2) the next November 10 which follows the date for payment
40 prescribed in subsection (d);

41 whichever occurs first.

42 (g) A taxpayer is not subject to the payment of interest on real

C
o
p
y



property assessments under subsection (b) or (c) if:

(1) an assessment is made or increased after the date or dates on which the taxes for the year for which the assessment is made were due;

(2) the assessment or the assessment increase is made as the result of error or neglect by the assessor or by any other official involved with the assessment of property or the collection of property taxes; and

(3) the assessment:

(A) would have been made on the normal assessment date if the error or neglect had not occurred; or

(B) increase would have been included in the assessment on the normal annual assessment date if the error or neglect had not occurred.

SECTION 3. IC 36-9-40-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. (a) Upon receipt of the primary assessment, the county auditor shall by mail notify the affected person of the amount of the assessment against the person's property.

(b) The notice must state the following:

(1) That the amount is due not later than thirty (30) days after the approval of the assessment by the works board.

(2) That a person who desires to pay the person's assessment by installments must enter into a written agreement under subsection

(c) before the due date.

(c) A person who desires to pay the person's assessment in twenty (20) equal semiannual installments must before the due date enter into a written agreement stating that in consideration of that privilege the person:

(1) will not make an objection to an illegality or irregularity regarding the assessment against the person's property; and

(2) will pay the assessment as required by law with specified interest.

(d) The agreement under subsection (c) shall be filed in the office of the county auditor. If a property owner elects to pay the property owner's assessments in installments, the assessment shall be entered for collection on the duplicate, shall have the same priority and rights, and shall be collected in the same manner as other taxes.

(e) The interest rate for the installments of the assessment is the interest rate established in ~~IC 6-1.1-37-9~~ **IC 6-1.1-37-9(b)**.

(f) An assessment of less than one hundred dollars (\$100) may not be paid in installments.

C
o
p
y



1 SECTION 4. IC 36-9-40-23 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. (a) The entire
 3 assessment is payable in cash without interest not later than thirty (30)
 4 days after the approval of the assessment by the works board if an
 5 agreement has not been signed and filed under section 22 of this
 6 chapter.

7 (b) If the assessment is not paid when due, the total assessment
 8 becomes delinquent and bears interest at the rate prescribed by
 9 ~~IC 6-1.1-37-9~~ **IC 6-1.1-37-9(b)** per year from the date of the final
 10 acceptance of the completed system by the works board.

11 SECTION 5. [EFFECTIVE JULY 1, 2005] **IC 6-1.1-15-10 and**
 12 **IC 6-1.1-37-9, both as amended by this act, apply only to property**
 13 **taxes on assessed value subject to:**

14 (1) review under; or

15 (2) judicial review in the tax court of a determination
 16 resulting from;

17 a petition for review to any board initiated after June 30, 2005.

C
O
P
Y

